



SAGUACHE COUNTY GOVERNMENT

501 Fourth Street
P. O. Box 655
Saguache, Colorado 81149

Phone: (719) 655-2231 • Fax: (719) 655-2635

www.saguachecounty.net

December 19, 2007

By Certified Mail

David Neslin, Director
Colorado Oil and Gas Conservation Commission
Suite 801
Denver, CO 80203

Re: Lexam Explorations (USA) Inc; Operator No. 50770; Application for Baca 7, dated Sep. 21, 2007

Mr. Neslin:

The Saguache County Board of County Commissioners hereby formally requests that the Commission delay any further action on the application submitted by Lexam for Well number 7 and that a public hearing be conducted on the application. This request is made pursuant to the Board's understanding that the Commission must be notified of the request for a public hearing before December 31, 2007.

Saguache County recognizes that the applicant may have certain property interests in the mineral rights and lease agreement, but after careful consideration of all aspects of the application, input from County advisory committees, discussions with members of the Commission's staff, and an overwhelming volume of concerns expressed by the citizens of Saguache County, the Board has determined that a delay in action on the application and a public hearing on the request for the same, is in the best interest of all involved in this process. The County has reached this decision based on a number of considerations, some, but not all, of which are listed below.

1. The County has been informed by the Commission that there are over 4,000 wells operating in the State of Colorado. Despite that fact, the application for each new well must be reviewed considering the potential impact and unique characteristics of each proposed site. The site of the proposed drilling operation in this case is a pristine National Wildlife Refuge set in the San Luis Valley. The Refuge has limited baseline data and is not slated to have developed their management plan based on findings, until 2012. The Valley does not have any existing drilling operations, nor in fact any major manufacturing operations. The County is in the process of developing it's first Oil & Gas regulations, standards, and agreements, but they are not yet in place.

The proposed drilling operation will be the first in such an environmentally sensitive area. In fact, the proposed site is located in a designated wetland area. This operation, if approved, may set the standard for any further drilling in the Valley and therefore must be scrutinized to the utmost extent to ensure that if granted, all efforts have been made to protect the health, safety and welfare of the citizens, and the integrity of the environment and wildlife at Refuge standards.

2. The proposed drilling operation will occur in a large confined aquifer which has been the subject of past litigation and is currently the subject of litigation at the Colorado Supreme Court concerning regulations to protect and stabilize the aquifer. The water located in the aquifer is the main source of both agricultural and domestic water for the residents of the San Luis Valley.

3. The U.S. Fish and Wildlife Service has been ordered, by action of a remand, by a Federal Court to comply with the N.E.P.A. review procedures and the regulations to implement the NEPA process. The Court further prohibited Lexam from “all ground disturbing activities” during the NEPA process. See: San Luis Valley Ecosystem Council v. U.S. Fish and Wildlife Service, United States District Court, Case No. 07CV00945 WDM.

Today, there is a visit and presentation by **NEPA Experts from U.S. Environmental Protection Agency in Denver** (Larry Svoboda - NEPA Program Director, Joyel Dhieux - NEPA Specialist in Oil and Gas Issues, Dick Clark - NEPA Specialist for National Park Lands. They represent yet another Agency with a role to play, and will be looking at this case for the first time, today.

4. The County has requested Cooperating Agency status with USFWS, but not yet received a response. This status is the mechanism whereby the County and USFWS work together on agreements and conditions where there is jurisdictional overlap. USFWS, by it's own procedures is meant to have invited us, during the EA scoping phase to be a Cooperating Agency, and did not. We are pursuing it, to assure that in good faith, local government and citizens have the opportunities afforded to them in existing protocols.

5. The County has requested, but not yet received, the Emergency Response Plan for Lexam. It is important that the County have the opportunity to provide input to this plan, as well as any considerations raised through the N.E.P.A. process be included in both the conditions for the application and the N.O.P.

6. The County perceives that there is an ongoing evolution of the approach to and the regulation of drilling operations in the State that has not been completed. The fact that the State passed a law last year requiring a change in the composition of COGCC membership and has required that changes in the current rules and policies of the Commission be implemented, was a result of the explicit recognition of the legislative bodies that the current application process and Commission rules are not adequate to protect the health and safety of the citizens of Colorado, as well as the irreplaceable wildlife asset. It appears reasonable that the Lexam application be considered in view of these concerns.

We have posed the issue to COGCC of clarifying cross-jurisdictional authorities, responsibilities and clashing government timelines, but these issues remain unclear. We understand that COGCC has requested an opinion from the Attorney General. The opinion will

provide the definitive guidance in this specific case, and is therefore prerequisite to any further action on the Refuge permits.

7. In addition to the request for a delay in action on the application for Well number 7, the Board of County Commissioners specifically request that the existing permits for Lexam's wells numbers 5 and 6 not be automatically renewed, and that a public hearing be set on any request for a renewal or extension of the permits, which the Board understands will expire in April 2008.

It is difficult to understand how COGCC can determine appropriate conditions for these permits without having the information generated by the N.E.P.A. process. The County cannot adequately comment on any such conditions without the relevant information, and U.S.F.W.S. cannot possibly determine all the requirements of the required N.O.P. without the results of the N.E.P.A. process. The existing draft N.O.P. of March 2007 was developed without the Court required information. Additionally, Saguache County was not actively consulted in the development of the proposed N.O.P.

It seems appropriate that all issues regarding the access to the proposed drilling site be resolved prior to the issuance by the State of a permit to drill. It is the understanding of the County's that legislation to require this approach may be presented at the next legislative session.

In summary, the Saguache County Board of Commissioners respectfully requests that the Commission delay any further action on Lexam Explorations (USA) Inc; Operator No. 50770; Application for Baca 7, dated Sep. 21, 2007, and that a public hearing be set by the Commission on this request. In view of the fact that the Federal Court has required that a status report in this case be filed on February 29, 2008, and no further action will be taken until after that date, the County Commissioners request that the public hearing be scheduled after that time, in order that any relevant information generated by that action may be considered by the Commission. However, if necessary due to COGCC rules we can attend a hearing at an earlier date.

In the event that the Colorado Oil and Gas Conservation Commission denies the request for the public hearing, the County Commissioners request that it be informed in writing of the specific reasons for that denial.

The County Commissioners have a responsibility to the residents of Saguache County to do everything feasible to ensure that if the drilling operation is permitted, that it is done under conditions and in a manner to ensure the health and safety of the citizens and to protect a valuable and pristine area. At this time, the Board does not believe that proper consideration has been given to such factors and that substantial more information is required before COGCC can in good faith take action on Lexam's application.

The Saguache County Commissioners look forward to working with the Commission in both addressing realistic outstanding concerns and the hearing process. Should you have any questions concerning this request, please contact any of the County Commissioners or the County Land Use Administrator, Wendi Maez, at (719) 655-2231.

Saguache County Board of Commissioners

By: Mike Spearman, Chairman